

UNITED STATES DISTRICT COURT

b

WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

MOHAMMED AHMED
HASSAN ABDALLAH OMRAN

CIVIL ACTION 1:16-CV-00042

VERSUS

JUDGE DRELL

NICOLE ROY, *et al.*

MAGISTRATE JUDGE PEREZ-MONTES

REPORT AND RECOMMENDATION

Plaintiff Mohammed Ahmed Hassan Abdallah Omran (“Omran”) filed a Motion for Relief from Judgment (Doc. 118). Omran asks for relief from the District Court’s judgment dismissing his Federal Tort Claims Act claim against the United States pursuant to the doctrine of res judicata (Docs. 83, 84). However, that judgment was reconsidered and Omran’s FTCA claim was again dismissed (Doc. 108). Omran appealed those judgments to the United States Court of Appeal for the Fifth Circuit, and his appeal is pending (Docs. 89, 98, 112).

I. **Law and Analysis**

“It is the general rule that a district court is divested of jurisdiction upon the filing of the notice of appeal with respect to any matters involved in the appeal.” Alice L. v. Dusek, 492 F.3d 563, 564 (5th Cir. 2007) (citing Taylor v. Sterrett, 640 F.2d 663, 667-68 (5th Cir. 1981); see also Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982) (“The filing of a notice of appeal is an event of jurisdictional significance—

it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.”).

Accordingly, the District Court is divested of jurisdiction to grant “relief from judgment.” Omran’s Motion for Relief from Judgment (Doc. 118) should be denied.

II. Conclusion

Based on the foregoing, IT IS RECOMMENDED that Omran’s Motion for Relief from Judgment (Doc. 118) should be DENIED for lack of jurisdiction.

Under the provisions of 28 U.S.C. § 636(b)(1)(c) and Fed. R. Civ. P. 72(b), parties aggrieved by this Report and Recommendation have fourteen (14) calendar days from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party’s objections within fourteen (14) days after being served with a copy thereof. No other briefs (such as supplemental objections, reply briefs, etc.) may be filed. Providing a courtesy copy of the objection to the undersigned is neither required nor encouraged. Timely objections will be considered by the District Judge before a final ruling.

Failure to file written objections to the proposed findings, conclusions, and recommendations contained in this Report and Recommendation within fourteen (14) days from the date of its service, or within the time frame authorized by Fed. R. Civ. P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Judge, except upon grounds of plain error.

THUS DONE AND SIGNED in chambers in Alexandria, Louisiana, this ____
day of November, 2017.

Joseph H.L. Perez-Montes
United States Magistrate Judge